

section (a) of this section: *Provided*, That the Director of Central Intelligence shall report to the Intelligence and Appropriations Committees of the Congress no later than January 1, 1990, and annually thereafter delineating those activities and organizations which have been exempted from the regulations required by subsection (a) of this section in accordance with the provisions of this subsection.

(e) Adverse effect determination by President prior to issuance of regulations; report to Congressional committees; voiding of regulations requirement

The President shall, before issuance of the regulations required by subsection (a) of this section, determine if the promulgation of such regulations would have a significantly adverse effect on the accomplishment of the mission of the Department of Defense or other Federal Government agencies: *Provided*, That if the President determines that the regulations required by subsection (a) of this section would have such an adverse effect, the President shall so report to the appropriate committees of the Senate and the House of Representatives, stating in full the reasons for such a determination: *Provided further*, That in the event of submission of a report to the committees containing an adverse effect determination, the requirement for the regulations prescribed by subsection (a) of this section shall be null and void.

(Pub. L. 100-463, title VIII, §8141, Oct. 1, 1988, 102 Stat. 2270-47.)

REFERENCES IN TEXT

The Office of Federal Procurement Policy Act, referred to in subsec. (a), is Pub. L. 93-400, Aug. 30, 1974, 88 Stat. 796, as amended, which is classified principally to this chapter (§401 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title.

Executive order 12333, referred to in subsec. (d), is set out as a note under section 401 of Title 50, War and National Defense.

CODIFICATION

Section was enacted as part of the Department of Defense Appropriations Act, 1989, and not as part of the Office of Federal Procurement Policy Act which comprises this chapter.

§ 406. Administrative powers

Upon the request of the Administrator, each executive agency is directed to—

- (1) make its services, personnel, and facilities available to the Office to the greatest practicable extent for the performance of functions under this chapter; and
- (2) except when prohibited by law, furnish to the Administrator and give him access to all information and records in its possession which the Administrator may determine to be necessary for the performance of the functions of the Office.

(Pub. L. 93-400, §7, Aug. 30, 1974, 88 Stat. 798.)

§ 407. Responsiveness to Congress

(a) Annual report on activities

The Administrator shall keep the Congress and its duly authorized committees fully and

currently informed of the major activities of the Office of Federal Procurement Policy, and shall submit a report thereon to the House of Representatives and the Senate annually and at such other times as may be necessary for this purpose.

(b) Submission of policy matter or regulation to Congressional committees

At least 30 days prior to the effective date of any policy or regulation prescribed under section 405(a) of this title, the Administrator shall transmit to the Congress a report on the proposed policy or regulation. Such report shall include—

- (1) a full description of the policy or regulation;
- (2) a summary of the reasons for the issuance of such policy or regulation; and
- (3) the names and positions of employees of the Office who will be made available, prior to such effective date, for full consultation with such Committees regarding such policy or regulation.

(c) Waiver of notice requirement by President

In the case of an emergency, the President may waive the notice requirement of subsection (b) of this section by submitting in writing to the Congress his reasons therefor at the earliest practicable date on or before the effective date of any policy or regulation.

(Pub. L. 93-400, §8, Aug. 30, 1974, 88 Stat. 798; Pub. L. 96-83, §5, Oct. 10, 1979, 93 Stat. 651; Pub. L. 98-191, §8(a), Dec. 1, 1983, 97 Stat. 1331.)

AMENDMENTS

1983—Subsec. (a). Pub. L. 98-191, §8(a)(1), struck out paragraph designation “(1)” before “The Administrator shall keep” and struck out pars. (2), (3), and (4) which related, respectively, to a proposal to congress by the Administrator of a uniform procurement system, a recommendation to congress of changes in legislation relating to procurement by executive agencies, and a proposal to congress for a management system to implement and enforce a uniform procurement system.

Subsec. (b). Pub. L. 98-191, §8(a)(2)(A), substituted “At least 30 days prior to the effective date of any policy or regulation prescribed under section 405(a) of this title, the Administrator shall transmit to the Congress a report on the proposed policy or regulation” for “At least 30 days prior to the effective date of any policy prescribed under section 405(h) of this title, the Administrator shall transmit to the Committees on Government Operations of the House of Representatives and of the Senate a detailed report on the proposed policy”.

Pub. L. 98-191, §8(a)(2)(B), inserted “or regulation” after “policy” wherever appearing in second sentence.

Subsec. (c). Pub. L. 98-191, §8(3), substituted “any policy or regulation” for “any policy”.

1979—Subsec. (a). Pub. L. 96-83, §5(a), designated existing provisions as par. (1), struck out references to President of the Senate and Speaker of the House, and provisions requiring the report to contain appropriate legislative recommendations, and added pars. (2) to (4).

Subsec. (b). Pub. L. 96-83, §5(b)(1), (2), substituted “any policy prescribed under section 405(h)” for “any major policy or regulation prescribed under section 405(a)”, and “policy” for “policy or regulation” wherever appearing.

Subsec. (c). Pub. L. 96-83, §5(b)(3), substituted “policy” for “major policy or regulation”.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-83 effective Oct. 1, 1979, see section 12 of Pub. L. 96-83, set out as a note under section 401 of this title.

PLAN FOR ALTERNATIVES TO INCREASE OPPORTUNITIES TO ACHIEVE FULL AND OPEN COMPETITION; STUDY TO CONGRESS, CRITERIA, ETC.

Pub. L. 98-369, div. B, title VII, §2753, July 18, 1984, 98 Stat. 1203, directed Administrator of Office of Federal Procurement Policy, in consultation with Secretary of Defense, Administrator of General Services and Administrator of the National Aeronautics and Space Administration, not later than Jan. 31, 1985, to complete a study of alternatives and recommend to Congress a plan to increase opportunities to achieve full and open competition on the basis of technical qualifications, quality, and other factors in the procurement of professional, technical, and managerial services.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 421 of this title.

§ 408. Applicability of existing laws

The authority of an executive agency under any other law to prescribe policies, regulations, procedures, and forms for procurement is subject to the authority conferred in section 405 of this title.

(Pub. L. 93-400, §9, Aug. 30, 1974, 88 Stat. 799.)

§ 409. Effect on existing regulations

Procurement policies, regulations, procedures, or forms in effect on December 1, 1983, shall continue in effect, as modified from time to time, until repealed, amended, or superseded by policies, regulations, procedures, or forms promulgated by the Administrator.

(Pub. L. 93-400, §10, Aug. 30, 1974, 88 Stat. 799; Pub. L. 96-83, §6, Oct. 10, 1979, 93 Stat. 651; Pub. L. 98-191, §8(b), Dec. 1, 1983, 97 Stat. 1331.)

AMENDMENTS

1983—Pub. L. 98-191 substituted “Procurement policies, regulations, procedures, or forms in effect on December 1, 1983, shall continue in effect, as modified from time to time, until repealed, amended, or superseded by policies, regulations, procedures, or forms promulgated by the Administrator” for “Procurement policies, regulations, procedures, or forms in effect as of October 10, 1979, shall continue in effect, as modified from time to time by the issuing offices on their own initiative or in response to policy directives issued under section 405(h) of this title until repealed, amended, or superseded pursuant to the adoption of the uniform procurement system described in section 405 of this title.”

1979—Pub. L. 96-83 substituted provisions setting forth applicability of procurement policies, etc., as of Oct. 10, 1979, for provisions setting forth applicability of procurement policies, etc., as of Aug. 30, 1974.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-83 effective Oct. 1, 1979, see section 12 of Pub. L. 96-83, set out as a note under section 401 of this title.

§ 410. Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this chapter, and for no other purpose, \$4,500,000 for the fiscal year ending September 30, 1984, and such sums as may be necessary for each succeeding fiscal year.

(Pub. L. 93-400, §11, Aug. 30, 1974, 88 Stat. 799; Pub. L. 96-83, §7, Oct. 10, 1979, 93 Stat. 651; Pub. L. 98-191, §6, Dec. 1, 1983, 97 Stat. 1329; Pub. L. 100-679, §3(b), Nov. 17, 1988, 102 Stat. 4056.)

AMENDMENTS

1988—Pub. L. 100-679 substituted “such sums as may be necessary for each succeeding fiscal year” for “for each of the three succeeding fiscal years”.

1983—Pub. L. 98-191 amended section generally, substituting provisions authorizing appropriations of \$4,500,000 for the fiscal year ending Sept. 30, 1984, and for each of the three succeeding fiscal years for provisions authorizing appropriations of \$4,000,000 for the fiscal year ending Sept. 30, 1980, and for each of the three succeeding fiscal years and requiring that future authorization of appropriations to carry out the purposes of this chapter be referred to the Senate Committee on Governmental Affairs.

1979—Pub. L. 96-83 substituted provisions authorizing appropriations of \$4,000,000 for the fiscal year ending Sept. 30, 1980, and for each of the three succeeding fiscal years, such funds not to be used for any other purpose, with one-third of the appropriations to be made available to the Federal Acquisition Institute, for provisions authorizing appropriations of not to exceed \$2,000,000 for the fiscal year ending June 30, 1975, of which not to exceed \$150,000 was to be available for the purposes of former section 405(d)(4) of this title, and such other sums as necessary for each of the four fiscal years thereafter, and substituted “Governmental Affairs” for “Government Operations”.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-83 effective Oct. 1, 1979, see section 12 of Pub. L. 96-83, set out as a note under section 401 of this title.

§ 411. Delegation of authority by Administrator

(a) The Administrator may delegate, and authorize successive redelegations of, any authority, function, or power of the Administrator under this chapter (other than the authority to provide overall direction of Federal procurement policy and to prescribe policies and regulations to carry out such policy), to any other executive agency with the consent of the head of such executive agency or at the direction of the President.

(b) The Administrator may make and authorize such delegations within the Office as he determines to be necessary to carry out the provisions of this chapter.

(Pub. L. 93-400, §12, Aug. 30, 1974, 88 Stat. 799; Pub. L. 96-83, §8, Oct. 10, 1979, 93 Stat. 652; Pub. L. 98-191, §8(c), Dec. 1, 1983, 97 Stat. 1331.)

AMENDMENTS

1983—Subsec. (a). Pub. L. 98-191 substituted “The Administrator may delegate, and authorize successive redelegations of, any authority, function, or power of the Administrator under this chapter (other than the authority to provide overall direction of Federal procurement policy and to prescribe policies and regulations to carry out such policy), to any other executive agency with the consent of the head of such executive agency or at the direction of the President” for “The Administrator may delegate, and authorize successive redelegations of, any authority, function, or power under this chapter, other than his basic authority to provide overall leadership in the development of Federal procurement policy, to any other executive agency with the consent of such agency or at the direction of the President”.

1979—Subsec. (a). Pub. L. 96-83 substituted provisions respecting delegation of the leadership role in the de-